THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. NO. 34343 of 1997

DATED: 28-03-2007

Between:-

Sk. Azeez s/o Subhani, aged 34 years, C/o Sk. Razoor, Gupta Centre, Vidyadharapuram, Vijayawada

..PETITIONER

And

The A.P.S.R.T.C. represented by its Vice Chairman and Managing Director, Musheerabad, Hyderabad and another.

… RESPONDENTS

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. NO. 34343 of 1997

O R D E R

The petitioner was engaged on daily wages during the period from 01-04-1978 to 11-06-1983. Seeking a direction that his case be considered for regular appointment on par with Sri E.V.Paul Raj and Sri G. Rajendra Prasad, the petitioner filed W.P. No. 19996 of 1988 which was allowed and a direction was issued to the respondents to consider the case of the petitioner for regular appointment in the respondent-corporation, if he was otherwise qualified.

The recruitment regulations of the respondents-corporation were modified vide Notification dated 24.09.1991 which came into effect from 05.09.1991. The modified recruitment regulations, in respect of posts of Cleaner/Khalasi, required the candidate not to be above (30) years of age as on 1st July of the year in which recruitment was made, that he should possess I.T.I. qualification and should have undergone apprenticeship training either for one year or two years of regular study in a recognized institution in Andhra Pradesh. On the ground that the petitioner was over aged by three years five months and 21 days, and did not possess the requisite educational qualification of I.T.I., his candidature for regular appointment was rejected. Aggrieved thereby, he preferred this present petition.

The petitioner would contend that others who were over aged, and did not possess the requisite qualifications, were also considered. Respondents would, however, deny the same in their counter-affidavit and submit that E.V.Paul Raj and Sri G.Rajendra Prasad fulfilled the prescribed qualification at the time of their selection. Respondents would deny the allegation

that Sri Ramaiah was appointed even though he was over aged. They would state that Sri B.Yedukondalu and Sri Ch. Ramachandra Rao fulfilled the qualifications prescribed prior to the modification of the Recruitment Regulations i.e. 05-09-1991. The earlier order of this Court in W.P. No. 19996 of 1988 required the petitioner's case to be considered for regular appointment if he was otherwise qualified. Since the regulations in force, on the date on which the petitioner was considered for regular appointment, prescribed an upper age limit of 30 years as on the 1st July and the educational qualifications of I.T.I., both of which the petitioner did not fulfill, the action of the respondents in rejecting the petitioner's claim for being appointed on a regular basis cannot be faulted.

Sri M. Surender Rao, learned counsel for the petitioner, would contend that the petitioner who had worked for more than four years continuously and thereafter with intermittent breaks was entitled to the benefit of regularization, more so when the services of his juniors were regularized.

As has been held in Secretary, **State of Karnataka and others v. Umadevi and others**[1], no right to seek regularization accrues in favour of employees engaged on daily wages/temporary basis, nor can a Mandamus be issued in this regard. In the absence of any vested right to claim regularization, the mere fact that a few others had been appointed on a regular basis earlier does not confer any right on the petitioner to claim parity, more so, when he does not fulfill the conditions prescribed in the statutory regulations for being appointed on a regular basis.

For the aforesaid reasons, the writ petition fails and is, accordingly, dismissed. However, in the circumstances, without costs.

_____

RAMESH RANGANATHAN, J

Dated: 28-03-2007
vp

---

[1] 2006 (4) SCC-1